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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,070	10/25/2001	Wanda Green Thompson	RCA 89470	8767

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Thomson Multimedia Licensing Inc
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EXAMINER

PENG, FRED H

ART UNIT	PAPER NUMBER
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2426

MAIL DATE	DELIVERY MODE
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05/17/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/018,070	Applicant(s) THOMPSON ET AL.	
	Examiner FRED PENG	Art Unit 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/09/10</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. In view of the Appeal Brief filed on 02/25/2010, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

DETAILED ACTION

Status of Claims

2. Claims 21-34 are pending in this application.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "determining a next program in the electronic program guide to be reached by the highlighted element based on the monitoring step; and displaying one of the stored advertisements representing an advertisement for the determined next program before the determined next program has been reached by the highlighted element" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macrae et al (US 2003/0208756) in view of Reitmeier (US 6,115,080).

Regarding Claims 21 and 27, Macrae discloses a video apparatus with corresponding method for providing an advertisement dynamically along with an electronic program guide (EPG) (FIG.1) having information of programs in response to movement of a highlighted element in the electronic program guide, the highlighted element being movable within the electronic program

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guide in response to a user key entry made via a user control device of the video apparatus (Para 197-200), the video apparatus being operative to enable performance of steps comprising:

receiving a plurality of advertisements, each one of the received advertisements being associated with at least one program in the electronic program guide and including a respective descriptor for identifying a program; storing the received advertisements (Para 327);

monitoring the movement of the highlighted element in the electronic program guide and displaying an advertisement corresponding to the selected program or theme (Para 328; Para 332).

However, Macrae is silent about determining a next program in the electronic program guide to be reached by the highlighted element based on the monitoring step and displaying one of the stored advertisements representing an advertisement for the determined next program before the determined next program has been reached by the highlighted element.

In an analogous art, Reitmeier discloses determining a next program in the electronic program guide to be reached by the highlighted element based on the monitoring step, thereby masking the channel selection latency period inherent in ATSC-like television system (Abstract; Col 17 lines 10-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Macrae's system to include the prediction of channels that a viewer may access or watch and the actual programming of the available programming that a viewer is more likely to watch, as taught by Reitmeier, in such a way, display the corresponding advertisements so that targeted advertisements can be obtained more quickly.

Regarding Claims 22 and 28, Macrae further discloses identifying which of the advertisements are targeted advertisements for display during the movement of the highlighted element in the electronic program guide, wherein the displayed advertisement is one of the identified targeted advertisements (Para 332; identifying an automobile advertisement when scrolling through the sports theme guide).

Regarding Claims 23 and 29, Macrae further discloses a channel descriptor for a respective one of the advertisements (FIG.8, a channel descriptor such as TNT).

Regarding Claims 24 and 30, Macrae further discloses the displaying step is performed in response to the channel descriptor associated with the displayed advertisement matching a channel associated with the determined next program (the automobile advertisement matching a sports channel associated with the determined next program).

Regarding Claims 25 and 31, Macrae further discloses a time descriptor (FIG.8, programs listed with time information).

Regarding Claims 26 and 32, Macrae further discloses the displaying step is performed in response to the channel descriptor associated with the displayed advertisement matching a channel associated with the determined next program and the time descriptor associated with the displayed advertisement matching a current time (FIG.8; the time descriptor associated with the displayed advertisement such as on golden pond is 8:00 pm matching a current time above 8:00 pm).

Regarding Claims 33 and 34, Macrae in view of Reitmeier inherently discloses a step of enabling a user to view the determined next program in response to a user input responding to the displayed advertisement for the determined next program (user is able to select and view the determined next program through a remote control, while reviewing the corresponding advertisement).

Conclusion

6. The prior art of record and not relied upon is considered pertinent to applicant's disclosure.

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- Klosterman, US 7,480,929

7. Claims 21-34 are rejected.

Correspondence Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:30-19:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fhp

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2426
May 14, 2010